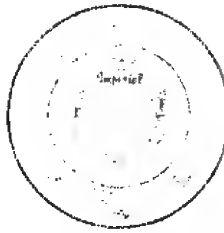


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Board of County Commissioners

TO: Jim Freeman, County Manager
CC: Bill Beasley, Deputy County Manager
FROM: Kandis Baker-Buford, Equal Opportunity Administrator
DATE: February 11, 2013
RE: Fire Rescue Division Investigation

Per your request, I conducted an investigation into a citizen's allegation that four Board of County Commissioners (BoCC) Fire Rescue supervisors engaged in conduct of a sexual nature, while on and off duty, as well as on and off BoCC property. Additionally, they allegedly used BoCC owned cellular phones to discuss and plan their sexual encounters. Specifically, Mr. Tony Crouse, Deputy Chief, reported to BoCC administration on or about February 5, 2013 that a citizen, Mr. Lee Hardy, had lodged the above referenced complaint with the Fire Rescue management staff. The following supervisory employees are the subject of the complaint: Ms. Shellie Krauklis, Medical Supervisor; Mr. Trampas Fletcher, Battalion Chief; Mr. Michael Tomlinson, Medical Supervisor; and Mr. Michael Choate, Deputy Chief.

Due to the allegation of sexual misconduct by these employees, and considering the BoCC's anti-sexual harassment policy, Section 10.11, I investigated the possibility of whether or not sexual harassment was a factor in the matter. I investigated the allegation that the above named supervisors engaged in physical contact or conduct of a sexual nature while on duty for the BoCC and/or in BoCC facilities. Additionally, I investigated the allegation that these supervisors sent and/or received text messages of a sexual nature via BoCC owned cellular phones. Although it was alleged that these individuals engaged in sexual activities both on and off duty, and/or on and off BoCC property, I confined the investigation to sexual conduct while on duty and/or on BoCC property. Below are the facts, findings and conclusion based on the investigation.

Facts:

I interviewed Ms. Krauklis, Mr. Fletcher, Mr. Tomlinson, and Mr. Choate, separately, on February 8, 2013. Each individual elected to have a representative, Mr. Jeff Calcutt, Local 3531 President, present with them during the interview, except Mr. Choate. All of these employees

have been employed with the BoCC for at least fifteen years, except Mr. Choate, who has been employed with the BoCC for approximately 11 months. Each of these employees has received a BoCC Employee Handbook and has been aware, during their employment with the BoCC, that the BoCC prohibits sexual harassment. Additionally, each has attended supervisory training courses/workshops during their tenure with the BoCC and/or with other agencies. They are well aware of the professional and ethical conduct that is expected of them.

Findings:

All four of these employees stated that they have not been sexually harassed by the other parties. They also indicated that they have never sexually harassed one another. In fact, none of these individuals have brought a sexual harassment complaint or allegation against the others.

Furthermore, Ms. Krauklis stated that she consented to and welcomed physical contact of a sexual nature from Mr. Fletcher. She also stated that she consented to and welcomed physical contact of a sexual nature from Mr. Tomlinson. Likewise, both Mr. Fletcher and Mr. Tomlinson stated that they consented to and welcomed physical contact of a sexual nature from Ms. Krauklis. In fact, Ms. Krauklis stated that she engaged in such consensual sexual acts with Mr. Fletcher as kissing, oral sex and sexual intercourse approximately ten to fifteen times, while both of them were on duty. Additionally, she indicated that they engaged in one or all of these sex acts while on BoCC property, approximately ten to fifteen times. Ms. Krauklis also stated that she engaged in such consensual sexual activities with Mr. Tomlinson approximately five or six times, while on BoCC duty and property.

Mr. Fletcher also admitted that he engaged in consensual sexual activities with Ms. Krauklis, while on BoCC duty and property. He stated that they engaged in sexual acts in two of the BoCC's fire stations and in the battalion chiefs' and medical supervisors' office. Mr. Fletcher stated that he only engaged in sexual activities with Ms. Krauklis approximately three or four times, while on BoCC duty and property.

However, Mr. Tomlinson denied that he engaged in sexual activity with Ms. Krauklis while on duty for the BoCC. Additionally, he told me that he did not engage in sexual activity with Ms. Krauklis on BoCC property. He stated that he had only one sexual encounter with Ms. Krauklis while he was off duty and off BoCC property. Yet, Mr. Crouse reported that Mr. Tomlinson admitted that he had one sexual encounter with Ms. Krauklis in the battalion chiefs' office (on BoCC property).

Both Ms. Krauklis and Mr. Choate stated that they did not engage in physical contact of a sexual nature with each other. They only sent each other text messages stating their interest and attraction for one another. Ms. Krauklis stated that Mr. Choate sent her text messages about wanting to kiss her, and she replied back "yes, that (a kiss) sounds good." Mr. Choate also stated that they sent each other text messages about meeting up to get a hug or kiss from each other, and he did so via his BoCC cellular phone. They both stated that they never did meet up and kiss

or hug. Additionally, both Ms. Krauklis and Mr. Choate stated that they did not send each other pornographic pictures.

Likewise, Ms. Krauklis stated that she sent and received text messages to and from Mr. Fletcher and Mr. Tomlinson. All three individuals stated that they sent and received text messages of a sexual nature via their personal cellular phones, regarding their sexual encounters. In fact, Mr. Tomlinson stated that he sent and received perverse text messages back and forth with Ms. Krauklis. He also stated that he sent Ms. Krauklis one pornographic picture but, she did not send him a pornographic picture. However, Mr. Fletcher and Ms. Krauklis stated that they did not send each other pornographic pictures.

Conclusion:

Based on Ms. Krauklis' and Mr. Fletcher's own admission, it is my conclusion that they engaged in consensual sexual activities such as kissing, oral sex and and/or sexual intercourse, at least four times while on BoCC duty and on BoCC property. Although it is substantiated that Ms. Krauklis and Mr. Fletcher sent and received text messages of a sexual nature to and from each other, there is no evidence to substantiate the allegation that they did so via BoCC cellular phones or other BoCC equipment. However, they violated the following BoCC policies, on more than one occasion, by engaging in sexual activities while on duty and in BoCC facilities:

Section 10.15 Disciplinary Policies and Procedures,

13. Engaging in disorderly or immoral conduct (including, but not limited to, violent, threatening, and/or offensive behavior, or use of abusive, offensive or profane language) while on duty or while on County property.
16. Vending or soliciting, or conducting personal business during working time or in any work areas of the County.
19. Deliberately or carelessly misusing, destroying, damaging or losing any County property or property of any employee, including use of County property for non-work related personal benefit or gain.
27. Performing any act which would place the County in a position of public disrepute.

Furthermore, both Ms. Krauklis and Mr. Fletcher failed to commit to the highest standard of personal integrity, as required by the BoCC Employee Handbook, Introduction section.

Thus, considering the number and frequency of BoCC Handbook violations they committed, Ms. Krauklis and Mr. Fletcher must be issued appropriate disciplinary action, up to and including termination. The disciplinary action should be consistent with BoCC policy and practice.

Similarly, Mr. Tomlinson committed a number of BoCC Handbook violations on more than one occasion. Specifically, Mr. Tomlinson engaged in sexual activities with Ms. Krauklis while on duty and in a BoCC facility. Although he denied doing so, he is not credible, considering the fact that he admitted to Mr. Crouse and/or Mr. Benny Luke, Medical Chief, that he did engage in sexual activity with Ms. Krauklis. Additionally, Ms. Krauklis confirmed the sexual activity with Mr. Tomlinson, and she was consistent in her accounts of the incidents and she was very credible. Although it is substantiated that Ms. Krauklis and Mr. Tomlinson sent and received text messages of a sexual nature to and from each other, there is no evidence to substantiate the allegation that they did so via BoCC cellular phones or other BoCC equipment.

In addition to engaging in sexual activity while on duty and on BoCC property, Mr. Tomlinson deliberately gave misinformation during an official investigation, which violates the following BoCC policies.

Section 10.15 Disciplinary Policies and Procedures,

13. Engaging in disorderly or immoral conduct (including, but not limited to, violent, threatening, and/or offensive behavior, or use of abusive, offensive or profane language) while on duty or while on County property.
16. Vending or soliciting, or conducting personal business during working time or in any work areas of the County.
19. Deliberately or carelessly misusing, destroying, damaging or losing any County property or property of any employee, including use of County property for non-work related personal benefit or gain.
20. Falsification of County records; (i.e. employment application, accident reports, work order, purchase order, time and attendance record, etc.); or deliberately giving misinformation during any official investigation.
27. Performing any act which would place the County in a position of public disrepute.

Mr. Tomlinson also failed to commit to the highest standard of personal integrity, as required by the BoCC Employee Handbook, Introduction section.

Thus, considering the number and frequency of BoCC Handbook violations he committed, Mr. Tomlinson must be issued appropriate disciplinary action, up to and including termination. The disciplinary action should be in accordance with BoCC policy and practice.

There is no evidence to substantiate an allegation that Mr. Choate engaged in physical contact of a sexual nature with Ms. Krauklis, while on duty and/or on BoCC property. However, there is sufficient evidence and admission that Mr. Choate sent and received text messages of a sexual

nature back and forth with Ms. Krauklis, via his BoCC issued cellular phone. Furthermore, he did so while on duty. Although it is clear that neither party sent or received pornographic pictures from the other, they both solicited hugs and kisses from each other and consented to the text messages.

Based on the above findings, it is my conclusion that Mr. Choate engaged in inappropriate conduct that could be also deemed sexual in nature. Furthermore, he used the BoCC cell phone for his personal use; he also inappropriately used and abused the County communication system and device(s) on more than one occasion, which violates the following BoCC policies:

Section 10.08 Electronic Communications Policy

- Text Messaging

Section 10.15 Disciplinary Policies and Procedures,

13. Engaging in disorderly or immoral conduct (including, but not limited to, violent, threatening, and/or offensive behavior, or use of abusive, offensive or profane language) while on duty or while on County property.
16. Vending or soliciting, or conducting personal business during working time or in any work areas of the County.
19. Deliberately or carelessly misusing, destroying, damaging or losing any County property or property of any employee, including use of County property for non-work related personal benefit or gain.
27. Performing any act which would place the County in a position of public disrepute.

Mr. Choate also failed to commit to the highest standard of personal integrity, as required by the BoCC Employee Handbook, Introduction section.

Thus, considering the number and frequency of BoCC Handbook violations he committed, Mr. Choate must be issued appropriate disciplinary action, up to and including termination. The disciplinary action should be in accordance with BoCC policy and practice.